

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1296**

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**Introduced by Assembly Member Bonilla**

February 18, 2011

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An act to add Part 3.8 (commencing with Section 15925) to Division 9 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1296, as amended, Bonilla. Health Care Eligibility, Enrollment, and Retention Act.

Existing law provides for various programs to provide health care coverage to persons with limited financial resources, including the Medi-Cal program and the Healthy Families Program. Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified, and meets certain other requirements. Existing law, the California Patient Protection and Affordable Care Act, creates the California Health Benefit Exchange (Exchange), specifies the powers and duties of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and requires the board to facilitate the purchase of qualified

health plans through the Exchange by qualified individuals and qualified small employers by January 1, 2014.

This bill would enact the Health Care Eligibility, Enrollment, and Retention Act, which would require the California Health and Human Services Agency, in consultation with specified entities, to establish standardized single application forms and related renewal procedures for Medi-Cal, the Healthy Families Program, the Exchange, and county programs, in accordance with specified requirements. The bill would specify the duties of the agency and the State Department of Health Care Services under the act, and would require the agency to report to the Legislature by April 1, 2012, regarding policy changes needed to implement the bill, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 3.8 (commencing with Section 15925) is  
2 added to Division 9 of the Welfare and Institutions Code, to read:

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4 PART 3.8. HEALTH CARE ELIGIBILITY, ENROLLMENT,  
5 AND RETENTION ACT  
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7 15925. (a) This part shall be known, and may be cited, as the  
8 Health Care Eligibility, Enrollment, and Retention Act.

9 (b) (1) By January 1, 2012, the California Health and Human  
10 Services Agency, in consultation with the State Department of  
11 Health Care Services (department), Managed Risk Medical  
12 Insurance Board (MRMIB), the California Health Benefit Exchange  
13 (Exchange), counties, health care ~~services~~ *service* plans, consumer  
14 advocates, and other stakeholders shall have undertaken a planning  
15 process to develop plans and procedures to implement this part  
16 and the federal Patient Protection and Affordable Care Act  
17 (PPACA) (Public Law 111-148), as amended by the federal Health  
18 Care and Education Reconciliation Act of 2010 (Public Law  
19 111-152), related to eligibility for, and enrollment and retention  
20 in, public health coverage programs.

21 (2) The agency shall submit a report to the health committees  
22 of both houses of the Legislature reflecting the process conducted  
23 pursuant to paragraph (1) by April 1, 2012, regarding policy

1 changes needed to develop the eligibility, enrollment, and retention  
2 system for health coverage in compliance with this part.

3 (c) The requirement for submitting a report imposed under  
4 subdivision (b) is inoperative on January 1, 2016, pursuant to  
5 Section 10231.5 of the Government Code.

6 15926. (a) The following definitions apply for purposes of  
7 this part:

8 (1) “Medi-Cal” includes all Medi-Cal programs, both full scope  
9 and limited scope benefits, and includes Medi-Cal with a  
10 share-of-cost.

11 (2) “Public health coverage programs” means Medi-Cal, the  
12 Healthy Families Program, the Exchange program of premium tax  
13 credits and reduced cost sharing, ~~and~~ *or* county health programs.

14 (3) “Real-time determination of eligibility” means a final  
15 determination of eligibility made at the time the application or  
16 retention information is submitted online.

17 (b) An individual shall have the option to apply for public health  
18 coverage programs in person, by mail, online, and by telephone.

19 (c) A single, standardized paper, electronic, and telephone  
20 application ~~form~~ for public health coverage programs shall be  
21 developed by the department in consultation with MRMIB and  
22 the board governing the Exchange and shall be used by all entities  
23 authorized to make an eligibility determination for any of the public  
24 health coverage programs and by their agents. *The department*  
25 *shall consult with counties and stakeholders, including consumer*  
26 *advocates, in the development of the application.* The application  
27 forms shall satisfy all of the following criteria:

28 (1) Include simple, user-friendly language and instructions.

29 (2) Require only that information that is necessary to determine  
30 eligibility for the applicant’s particular circumstances.

31 (3) May be used for screening, but shall not be limited to  
32 screening. The application ~~form~~ ~~instead~~ shall be an application for  
33 public health coverage programs at all stages of submittal, receipt,  
34 or acceptance at any location authorized to receive or accept an  
35 application for any of the public health coverage programs.

36 (d) All locations of any kind where applications for any of the  
37 public health coverage programs are received or accepted, including  
38 physical and telephone locations and Internet Web portals or other  
39 electronic systems, shall treat the applications described in  
40 subdivision (c) as an application for all of the public health

1 coverage programs. The entity making the eligibility determination  
2 shall enroll the applicant in the most beneficial public health  
3 coverage program for which the applicant is eligible. If an  
4 application is forwarded or transferred between or among entities  
5 for processing, this process shall not require the applicant to submit  
6 any new information that is not necessary to determine her or his  
7 eligibility. The applicant shall be informed at the time of  
8 application how to obtain information about the status of his or  
9 her application at any time and the information shall be promptly  
10 provided when requested.

11 (e) The application form described in subdivision (c) shall be  
12 designed to identify infants under the age of one year who are  
13 deemed eligible at birth without an application to Medi-Cal under  
14 Section 1396a(e)(4) of Title 42 of the United States Code or to the  
15 Healthy Families Program under Section 12693.70 of the Insurance  
16 Code. An infant who is deemed eligible shall be enrolled upon  
17 identification, and the infant's family shall not be required to  
18 complete the application process.

19 (f) Nothing in this section shall preclude the use of a  
20 provider-based application form for public health coverage  
21 programs that differs from the application form described in  
22 subdivision (c) to comply with any of the following:

23 (1) The form and procedures used by the Child Health and  
24 Disability Prevention Program (CHDP) Gateway under Section  
25 14011.7 of the Welfare and Institutions Code and by Medi-Cal's  
26 presumptive eligibility program for pregnant women under Section  
27 14148.7 of the Welfare and Institutions Code for children and  
28 pregnant women in families with income at or below 200 percent  
29 of the federal poverty level shall be modified in the simplest way  
30 permitted by federal law to do both of the following:

31 (A) Serve as an application for ongoing coverage to Medi-Cal,  
32 and, for children, to the Healthy Families Program.

33 (B) Provide for a program of accelerated enrollment through  
34 which children and pregnant women screened eligible are  
35 immediately enrolled from the medical point of service into  
36 coverage with benefits continuing until a final eligibility  
37 determination is made.

38 (2) The department shall adopt a process for prenatal care  
39 providers to submit the application form for pregnant women  
40 required by paragraph (1) online.

1 (3) The department shall adopt a process for hospitals to enroll  
2 infants deemed eligible for Medi-Cal under Section 1396a(e)(4)  
3 of Title 42 of the United States Code or the Healthy Families  
4 Program under Section 12693.70 of the Insurance Code  
5 immediately online, without an application.

6 (g) An applicant or recipient ~~for~~ of a public health coverage  
7 program shall be given the option, with his or her informed consent,  
8 to have the application or renewal form prepopulated or  
9 electronically verified in real time, or both, using ~~person~~ *personal*  
10 information from his or her own public health coverage program  
11 or other public benefits case file or that of a parent or child or  
12 electronic databases authorized by the PPACA.

13 (1) An applicant or recipient who chooses a prepopulated  
14 application or renewal shall be given an opportunity, before the  
15 application or renewal form is submitted to the entity authorized  
16 to make eligibility determinations, to provide additional eligibility  
17 information and to correct any information retrieved from a  
18 database.

19 (2) An applicant or recipient who chooses electronic real-time  
20 verification shall be permitted to provide additional eligibility  
21 information and to correct information retrieved from a database  
22 any time before or after a final eligibility determination is made.  
23 An applicant shall not be denied eligibility for any public health  
24 coverage program without being given a reasonable opportunity,  
25 ~~at least to the extent of~~ *at least the kind* provided for under the  
26 Medi-Cal program; for citizenship documentation, to resolve  
27 discrepancies concerning any information provided by a verifying  
28 entity. Applicants shall receive ~~benefits~~ *the benefits for which they*  
29 *otherwise qualify* pending this reasonable opportunity period.

30 (h) (1) Eligible applicants shall be granted eligibility and  
31 immediately enrolled into a public health coverage program  
32 whenever possible. When granting eligibility immediately is not  
33 possible for an applicant who appears to be eligible based on the  
34 information provided in the application, both of the following shall  
35 apply to the fullest extent permitted by federal law with federal  
36 financial participation:

37 (A) The applicant shall be immediately enrolled into a program  
38 of presumptive eligibility for children, pregnant women, and adults.

39 (B) Presumptive eligibility shall continue until the applicant is  
40 enrolled in ongoing coverage through a public health coverage

1 program, or found to be ineligible for all of these programs and  
2 informed of the denial of coverage in accordance with all applicable  
3 due process requirements.

4 (2) Notwithstanding paragraph (1), before an online applicant  
5 who appears to be eligible for the Exchange with a premium tax  
6 credit or reduction in cost sharing, or both, may be enrolled in the  
7 Exchange, all of the following shall occur:

8 (A) The applicant shall be clearly informed of the overpayment  
9 penalties under the Comprehensive 1099 Taxpayer Protection and  
10 Repayment of Exchange Subsidy Overpayments Act of 2011 (~~H.R.~~  
11 ~~4~~) (*Public Law 112-9*), if the individual's annual family income  
12 increases by a specified amount or more, calculated on the basis  
13 of the individual's current family size and current income, and that  
14 penalties are avoided by prompt reporting of income increases  
15 throughout the year.

16 (B) The applicant shall be fully informed of the penalty for  
17 failure to have minimum essential health coverage.

18 (C) The applicant shall be given the option to decline immediate  
19 enrollment while final eligibility is being determined.

20 (i) The eligibility, enrollment, and retention system shall ensure  
21 that applicants and recipients receive assistance ~~to understand~~  
22 ~~decisions they may make with their application or renewal for~~  
23 *public health coverage programs*, including, but not limited to,  
24 ~~those concerning assistance with hardship exemptions from the~~  
25 individual mandate, the premium tax credit and cost-sharing  
26 reductions for the Exchange, and penalties for overpayments,  
27 verifications, and plan choice. Applicants and recipients shall also  
28 be given a meaningful opportunity to provide information on their  
29 applications and renewal forms that ensures their enrollment in,  
30 and retention of, health care coverage, in the most beneficial  
31 program for which they are eligible.

32 (j) At application, renewal, or a transition due to a change in  
33 circumstances, eligible applicants and recipients of public health  
34 coverage programs shall move seamlessly between programs  
35 without any breaks in coverage and without being required to  
36 provide duplicative or otherwise unnecessary verification, forms,  
37 or other information.

38 (k) The department shall develop procedures to ensure continuity  
39 of coverage at specific transitions, including, but not limited to,  
40 all of the following:

- 1 (1) When a consumer reaches 65 years of age.
- 2 (2) When a child reaches 19 years of age.
- 3 (3) When a foster youth reaches the age upon which his or her  
4 foster care benefits terminate.
- 5 (4) When family income, assets, household composition, or  
6 other circumstances affecting eligibility change.
- 7 (l) The department shall, in coordination with MRMIB and the  
8 Exchange board, streamline and coordinate all eligibility rules and  
9 requirements among Medi-Cal, the Healthy Families Program,  
10 and the Exchange premium tax credit and reduced cost-sharing  
11 using the least restrictive rules and requirements to ensure that all  
12 applicants whose income is less than 400 percent of the federal  
13 poverty level shall be determined eligible for Medi-Cal, the Healthy  
14 Families Program, or the Exchange when they meet the eligibility  
15 requirements and that all entities processing applications use the  
16 same least restrictive methodologies to determine which program  
17 is most beneficial for each applicant. This process shall include  
18 coordination of rules for determining income levels, assets,  
19 household size, citizenship and immigration status, and  
20 documentation and verification requirements, so that all  
21 applications of eligible persons result in coverage in the most  
22 beneficial program and seamless transition between programs.
- 23 (m) Renewal procedures shall be coordinated across all public  
24 health coverage programs and among entities that accept and make  
25 eligibility determinations so as to use all relevant information  
26 already included in the individual's Medi-Cal, other public benefits,  
27 the Healthy Families Program, or Exchange case file, or that of  
28 the individual's parent or child, or electronic databases authorized  
29 for data sharing by the PPACA to renew benefits or transfer eligible  
30 recipients seamlessly between programs without a break in  
31 coverage and without requiring a recipient to provide redundant  
32 information. Renewal procedures shall be as simple and  
33 user-friendly as possible, shall require recipients to provide only  
34 information ~~which~~ *that* has changed, if any, and shall use all  
35 available methods for reporting renewal information, including,  
36 but not limited to, face-to-face, telephone, and online renewal. ~~To~~  
37 ~~the maximum extent allowed under federal law, a recipient shall~~  
38 ~~be permitted to update her or his eligibility information at any~~  
39 ~~point and thereby restart the period for her or his annual~~  
40 ~~redetermination. Eligibility for public health coverage programs~~

1 ~~shall be automatically renewed whenever any public benefits~~  
2 ~~program renewal is conducted. A recipient shall be permitted to~~  
3 ~~update his or her eligibility information at any point.~~

4 (1) *A recipient providing an update to his or her eligibility*  
5 *information in between renewal dates shall be given the option to*  
6 *renew eligibility at the time of the update.*

7 (2) *Eligibility for public health coverage programs shall be*  
8 *automatically renewed whenever any public benefits program*  
9 *renewal is conducted.*

10 (n) The eligibility, enrollment, and retention system shall be  
11 both transparent and accountable to the public by complying with,  
12 but not limited to, the following:

13 (1) The department, the California Health and Human Services  
14 Agency, MRMIB, and the Exchange board shall provide a forum  
15 in which the public, including consumers and their advocates, may  
16 on a regular basis, and no less than once a month, give feedback  
17 in person on the implementation of the eligibility, enrollment, and  
18 retention system, including activities of any public or private entity  
19 or individual providing eligibility screening or application or  
20 retention assistance, for timely corrective action by the department,  
21 MRMIB, and the Exchange board.

22 (2) In designing and implementing the eligibility, enrollment,  
23 and retention system, the department, MRMIB, and the Exchange  
24 board shall do both of the following:

25 (A) Provide for evaluation of information technology (IT)  
26 programming by an independent expert before implementation.  
27 This evaluation shall be made available to the public sufficiently  
28 in advance of implementation to allow for an opportunity for  
29 review and comment.

30 (B) Provide for annual postimplementation evaluation by an  
31 independent expert using data points developed in consultation  
32 with stakeholders, including consumers and their advocates. This  
33 evaluation shall be made available to the public within a reasonable  
34 time period.

35 (3) The duties of the department, the California Health and  
36 Human Services Agency, MRMIB, and the Exchange board under  
37 this subdivision shall include the duty to monitor and oversee  
38 private as well as public entities engaged in screening for eligibility  
39 for a public health coverage program to ensure that the correct  
40 eligibility rules and requirements are being used by the screener

1 when informing an individual about his or her potential eligibility,  
2 that updates to the eligibility rules and requirements used by the  
3 screener are made correctly and on a timely basis, and that the  
4 screener strictly adheres to the privacy and confidentiality  
5 provisions of subdivision (o).

6 (o) In designing and implementing the eligibility, enrollment,  
7 and retention system, the department, MRMIB, and the Exchange  
8 board shall ensure that all privacy and confidentiality rights under  
9 the PPACA, other federal and California laws and regulations, the  
10 Medi-Cal Program, and the Healthy Families' Program are strictly  
11 incorporated and followed. This includes, but is not limited to,  
12 adopting and implementing policies and procedures to ensure all  
13 of the following:

14 (1) Only that information that is strictly necessary for an  
15 eligibility determination for the individual who is seeking  
16 enrollment in or renewal for a public health coverage program  
17 shall be requested in the application, retention, and renewal process  
18 for that program.

19 (2) Verification from a third party or database shall be sought  
20 only with respect to information required to be obtained or verified  
21 under federal law to determine eligibility for the public health  
22 coverage program at issue for an individual.

23 (3) Applicants and recipients shall be given clear, complete,  
24 user-friendly information regarding how their personal information  
25 will be used, disseminated, secured, verified, and retained by public  
26 health coverage programs.

27 (4) An applicant or recipient shall not be required by the  
28 department, MRMIB, the Exchange board, or any public or private  
29 entity or individual providing eligibility screening or application  
30 or retention assistance to agree to the sharing of his or her personal  
31 information without informed consent as a condition of being  
32 screened for, applying to, or renewing eligibility for a public health  
33 coverage program. Applicants and recipients shall have the option  
34 to decline online screening, application, renewal, and electronic  
35 verification and instead may apply or renew in person, by mail, or  
36 by telephone.

37 (5) Responses to security breaches shall be conducted according  
38 to the strictest requirements of privacy and confidentiality laws,  
39 including, but not limited to, implementation of a plan to directly  
40 provide information about the breach to anyone whose personal

1 information has been confirmed or suspected to have been  
2 compromised, stolen, or viewed by anyone without authorized  
3 access.

4 (p) All programs shall use standardized forms and notices, as  
5 appropriate, to timely inform recipients in advance of all of the  
6 following:

7 (1) What information, if any, is required from them for renewal.

8 (2) Whether transfer to another public health coverage program  
9 is to occur.

10 (3) How the transfer will affect the recipient's cost, access to  
11 care, delivery system, and responsibilities.